

## **Washington County Land Use Authority Meeting November 13, 2012**

The Washington County Land Use Authority Meeting was held Tuesday, November 13, 2012 in the Council Chambers of the Washington County Administration Building located at 197 E. Tabernacle, St. George, UT. The meeting was convened at 1:30 p.m. by Chairman Doug Wilson.

Commissioners present: Deborah Christopher, Dave Everett, Mike Stucki, Kim Ford, JoAnn Balen, Rick Jones, and Julie Cropper (alternate).

Staff present: Deon Goheen, Planning & Zoning Administrator; Eric Clarke, Deputy County Attorney; Doreen Bowers-Irons, Planning Secretary; Todd Edwards, County Engineer.

Chairman Wilson welcomed and thanked everyone for attending. He asked that cell phones be turned off. He led the Pledge of Allegiance after which, he explained meeting protocol.

**I. STAFF COMMENTS.** Review staff comments for each item listed below; Staff initiated.

**II. CONDITIONAL USE PERMIT.** Request permission for a “Sweetheart Half Marathon”, February 9, 2013, starting at Old Hwy. 91 on the west side of Utah Hill on the Beaver Dam Slope and running to Ivins; Jeremy Frehener, applicant.

The planner stated the applicant has submitted an application for a “Sweetheart 2013 Half Marathon” event that will start at Utah Hill and run to Ivins. The event is scheduled for Saturday, February 9, 2013. The applicant reported Public Works has approved the plan of the race course. Mr. Whitehead will be happy to write a letter or come to the meeting as needed. Lt. Rob Tersigni also approved the use of the course. The road does not need to be closed and the Red Mountain Running Group and City of Ivins would employ two (2) sheriff deputy vehicles to pilot the runners along Old Hwy. 91 to help move traffic as needed during the 3 hours of the run. If needed, the Shivwits Indian Representative should grant written approval for crossing the reservation. The County would want to be listed as a beneficiary on the liability insurance policy. Also, review communication and emergency access plans and information. She provided a copy of the route for the commission to review.

Commissioner Everett asked if the applicant received approval from the Shivwits Reservation. The planner stated Mr. Frehner had permission on the other marathon events but did not know if he had followed through with the written approval for this one.

Jeremy Frehner stated he has not received specific written approval for this race to run through the reservation but does not believe it will be an issue as the other races have been approved with no issues. He will contact Glen Rogers to get written permission and submit the letter to the planning department. He explained the event details to the commission.

There were a few minor questions regarding the race from the commission which, Mr. Frehner answered.

The commission discussed and made findings of fact for approval as follows:

- The applicant has experience with this type of event and has a proven record.
- The event meets the required guidelines from the checklist for this type of use.

**Motion:** Commissioner Cropper **MOVED** to recommend the County Commission approve the Conditional Use Permit for a “Sweetheart Half Marathon”, February 9, 2013, starting at Old Hwy. 91 on the west side of Utah Hill on the Beaver Dam Slope and running to Ivins; Jeremy Frehener, applicant with the findings of facts as follows:

- The applicant has experience with this type of event and has a proven record.

- **The event meets the guidelines for this type of use.**

**Commissioner Ford SECONDED. Chairman Wilson called for a discussion on the motion. Commissioner Everett requested written permission be submitted from the Shivwits granting approval of access. The motion carried with all six (6) Commissioners voting in favor.**

**III. CONDITIONAL USE PERMIT MODIFICATION.** Request permission to revise the site plan and modify requirements on permit to create pasture grounds, corral, and stabling lease areas for horses and equipment, storage area, and workshop for the Kayenta Development Group within the OST-20 zone, a portion of Sec. 36, T41S, R17 W, and Sec. 1, T42S, R17W, SLB&M, generally located south of Ivins; Terry Marten, applicant

The planner reported the applicant would like to revise his plan and have the requirements modified on this use. Next month, this item will be up for the 4<sup>th</sup> extension and the applicant has not been able to meet the requirements of the previous review. As the ownership has recently been resolved and the economy has not picked up, they would like to change the request for riding stables, training arenas, and fenced equipment storage areas. The commission made findings that uses requested were similar to the listed conditional uses and judged by the planning commission to be in harmony with the character and intent of the zone. History shows previous attempts by Sheila Wilson, founder and Sunhawk Productions to establish a Native American Cultural Center at this location have diminished, the mortgagee, Terry Marten (Kayenta Development), would like to pursue viable options on his investment, until this area can be combined with surrounding future development or annexed to Ivins or put into some type of Conservation Park.

Commissioner Everett recalled a previous disagreement as far as ownership went and asked if the issue had been resolved. The planner stated that was correct. Apparently, the court has made a decision on ownership. Commissioner Stucki asked if the court has made the decision or will make the decision and if a copy of ownership is filed with the county. The planner stated the representative will explain the decision that was made by the courts.

Lance Anderson representative of Terry Marten addressed the commission and reported the process has been ongoing for eight years. RT Marten is the owner of the land based on the courts decision. Betty will be moving from the property. He explained the changes the applicant is requesting indicating the applicant would like to use the property for storing large equipment and not construction a no see fence where it is far enough out that no one should see the equipment from the roadway. They would utilize the property this way until something can be done with the property or it is made into a conservation park.

A lengthy discussion regarding ownership and the acquisition of the property occurred, which included the recording of ownership. Mr. Anderson explained what he knew of the legal issues of the property acquisition. The Commission and Mr. Anderson discussed the fencing, water, vehicle storage, port-a-potties instead of restrooms, the commercial use of the property, and various other issues of the use of the property and the previous conditions of approval. The applicant was informed that if the property were to be used for a commercial gain, then a Conditional Use Permit should be resubmitted for approval.

Mr. Anderson stated they are asking for some leeway on the fencing. They are of the opinion that until there is a real need for the property or a change, they would come back to update the conditional use permit. Right now, they are using the land to store their equipment. Betty is still living there but she will be leaving. The Tepees' and Hogan's are still in place and being used by the group who uses them for Native American events which, remain. At this point in time, the property is being used as private property and not for commercial use.

The County Attorney stated he was unfamiliar with the property and the project. If the commission would like to table the issue for research he was amenable to tabling the item until the next meeting to get more clarification on ownership and what the applicant wants to do with the property.

A discussion regarding personal property and what the owner can do with their property ensued. The commission thought the owner could do as they wished with the property until it was used for commercial enterprises.

**Motion:** Commissioner Everett MOVED to ask the applicant to withdraw the application of the Conditional Use Permit Modification to revise the site plan and modify requirements to create pasture grounds, corral, and stabling lease areas for horses and equipment, storage area, and workshop for the Kayenta Development Group within the OST-20 zone, a portion of Sec. 36, T41S, R17W, and Sec. 1, T42S, R17W, SLB&M, generally located south of Ivins; Terry Marten, applicant. Commissioner Ford SECONDED. Chairman Wilson called for discussion on the motion. There was none and the motion carried with four (4) voting in favor and two (2) voting against.

Commissioner Stucki questioned the motion made as it was not on the agenda and how it would be reconciled for the record. Commissioner Everett stated the item was listed as an action item on the agenda. Commissioner Stucki stated the action was to revise the site plan which called for a yea or nay. He stated he had no problem with the motion; he just wanted clarification on how it would be addressed for the record. Commissioner Ford stated if it was withdrawn the issue is moot. A lengthy discussion on the motion took place for clarification. The motion stood.

**IV. PUBLIC HEARING.** Open hearing for Washington County Zoning Subdivision Ordinance amendments regarding Description and Delineation requiring 10' utility and drainage easement along the front of the property and as needed; county initiated.

The Planner stated the commission will need to open a public hearing as referenced by State Code, whereas amending the Washington County Subdivision Ordinance requires a minimum ten days published notice and 24 hour posting of agenda before other public meeting. *This item is in conjunction with the item below.*

**Motion:** Commissioner Stucki MOVED to open the public hearing for the Washington County Use Subdivision Ordinance amendments regarding Description and Delineation requiring 10' utility and drainage easement along the front of the property and as needed; County initiated. Commissioner Ford seconded. The motion passed with all (6) voting in favor and the floor was open to the Public Hearing.

Todd Edwards, County Engineer reported the representative from Questar was unable to stay for the public hearing. He provided handouts from Questar. He explained from Questar's standpoints having a 10-foot easement in the front is not enough if they have to maintain their separations from the electrical. Electrical usually installs power vaults that are 10-feet long and 7-feet wide. The minimum separation is 3-feet so if Questar has to go around that power vault, they feel that they need more easement space. It would be easier if they had 15-foot front yard easements at all times to go around the power vault or to not eliminate the side yard easements because of the location of the electrical vaults on corner lots. They are asking for the 15-foot front yard easement or to not eliminate the side yard easement. They do not care about the rear yard easements as they do not use them.

Commissioner Christopher asked if the County was trying to eliminate the side yard easements. Mr. Edwards answered they would like to eliminate them because they are not needed, as the majority or the utilities are now installed in the front yards and or in the streets.

Mr. Edwards said there are two options, to go up to the 15-foot easement or to stay with the 10-foot easement and if there were to be an electrical box, to grant an additional easement at that point. The second option would require diligence to ensure the easement is in the correct location to avoid potential issues.

A short discussion regarding the easement options and location issues for clarification purposes occurred.

**Motion:** Commissioner Ford MOVED to close the public hearing for the Washington County Use Subdivision Ordinance amendments regarding Description and Delineation requiring 10' utility and drainage easement along the front of the property and as needed; County initiated. Commissioner Stucki seconded. The motion passed with all (6) voting in favor and the floor was open to the Public Hearing.

V. **ORDINANCE AMENDMENT.** Consider approval on amendment to the Washington County Subdivision Ordinance, Title 1, Chapter 4, 2:A.Description And Delineation: The final plat shall show: 9. Required utility and drainage easements along front property lines shall be a minimum of ten feet (10') and as needed; County initiated.

The Planner reported several years ago the staff felt it would be good to have a utility easement requirement on the frontage of each lot, instead of all property lines and utility or drainage easements may be reviewed as needed. The commission may recall you did not agree with the suggestion for the 15' frontage easement, so we have changed it back to 10' and as needed. Staff will call for a construction drawing review on all subdivisions, so utilities will be able to review and sign off knowing there will be enough space for lines to go around pedestals and hydrants in the easement. This has been properly advertised and if recommended for approval, this ordinance change will go before the County Commission on the 4<sup>th</sup> of December.

Todd Edwards explained the proposed amendments to the Subdivision Ordinance, Title 1. He and the commission discussed the easements and the final plats showing the easements along with verbiage for the utility easements.

**Motion:** Commissioner Stucki MOVED to table recommendation for the County Commission to approve the Ordinance Amendments to the Subdivision Ordinance, Title 1, Chapter 4, 2:A.Description And Delineation: The final plat shall show: 9. required utility and drainage easements along front property lines shall be a minimum of ten feet (10') and as needed for modification, clarification, and wording. Commissioner Ford SECONDED. Chairman Wilson called for discussion on the motion. There was none and the motion carried with all six (6) voting in favor.

VI. **PUBLIC HEARING.** Open hearing for Washington County Land Use (Zoning) Ordinance amendments regarding clarification of definition for kenneling; County initiated.

The planner stated the commission will need to open a public hearing as referenced by State Code, whereas amending the Washington County Zoning Ordinance requires a minimum ten days published notice and 24 hour posting of agenda before other public meeting. *This item is in conjunction with the item below.*

**Motion:** Commissioner Stucki MOVED to open the public hearing for the Washington County Land Use (Zoning) Ordinance amendments regarding clarification of definition for kenneling. Commissioner Everett seconded. The motion passed with all (6) voting in favor and the floor was open to the Public Hearing.

Rodney Hoppel resident of Dammeron Valley provided a handout to the commission. He asked the planner to state the definitions of kenneling and catteries, which she did. He reported on St. George City's Animal Control Ordinance. He provided some history on how the issue of how many dogs and cats a residence can have that came about, which was started with a neighbor dispute that escalated into a problem with the homeowners association and residents of Dammeron Valley. He urged the planning commission to recommend the County Commission adopt St. George City's Ordinance.

Mr. Hoppel and the planner discussed some of the changes that are being addressed in the ordinance. The planner stated the changes would be to remove numbers in the ordinance for household pets and change the kennel definition.

Mr. Hoppel reported in detail the issue between he and his neighbor and why this has become an issue.

**Motion: Commissioner Ford MOVED to close the public hearing for the Washington County Land Use (Zoning) Ordinance amendments regarding clarification of definition for kenneling. Commissioner Ford seconded. The motion passed with all (6) voting in favor and the floor was closed to the Public Hearing.**

**VII. ORDINANCE AMENDMENT.** Consider an amendment to Title 10, Chapter 4, Definitions 1: Terms Defined: Kenneling; County initiated.

The Planner stated staff determined it would be helpful to delete the kenneling definition and any reference to kenneling in the zones, where as Title 5, Law Enforcement and Animal Control in Chapter 3 addresses issues and is the enforcement arm. If there is a need for animals to be rescued or a commercial use, it can be reviewed conditionally. The planning commission felt strongly about leaving the definition in the ordinance, whereas it addressed numbers to regulate how many cats and dogs people can have. If recommended for approval, this will go before the County Commission on December 4, 2012.

The Planning Commission and Staff discussed the changes to the ordinance. Commissioner Stucki suggested the County utilize St. George City's ordinance as suggested during the public hearing.

Commissioner Stucki stated he liked the definitions St. George uses and suggested they be incorporated into the County. The Commission discussed the definitions and agreed with Commissioner Stucki's suggestion.

Mr. Clarke reported he would make the changes the commission suggested and clarify and modify those definitions and bring the amendments back to the Commission at the next meeting.

**Motion: Commissioner Stucki MOVED to table consideration of an amendment to Title 10, Chapter 4, Definitions 1: Terms Defined: Kenneling; County initiated for clarification of the definition for kenneling and additional information and wording to be brought back by the County Attorney's office. Commissioner Cropper SECONDED. Chairman Wilson called for discussion on the motion. There was none and the motion carried with all six (6) voting in favor.**

**VIII. STAFF DECISIONS.** Review of decisions from the Land Use Authority Staff Meeting held on November 06, 2012; County initiated.

The Planner reviewed the decisions of the Land Use Authority Staff Meeting held November 06, 2012 as reported below:

**ACTIONS OF THE LAND USE AUTHORITY STAFF MEETING**  
**November 06, 2012**

The staff meeting convened at 9:30 a.m. Staff Members Present: Deon Goheen, Planning & Zoning Administrator; Kurt Gardner, Building Official; Todd Edwards, County Engineer; Eric Clarke, Deputy Civil Attorney; Darwin Hall, Ash Creek Special Service District; Becky Marchal, Questar Preconstruction Specialist; Director Paul Wright, Department of Environmental Quality; and Robert Beers, Southwest Utah Public Health Department.

Excused: Ron Whitehead, Public Works; and Tina Esplin, Washington County Water Conservancy District.

**CONDITIONAL USE PERMIT EXTENSION:**

**A. Request permission for a single family dwelling within the A-20 zone in the Mountain Meadows area. Tom Lamb, applicant.**

This is the 3<sup>rd</sup> extension review, with the planner showing that permit #6311 was issued and later completed on February 19, 2011. This particular parcel is 5 acres within the A-20 zone near Mountain Meadows, which was verified by deed as a grand fathered parcel split in 1969, prior to the adoption of the zoning ordinance in 1972. There are two other parcels in conjunction with this piece of land. The applicant met the requirements for the use permit by submitting a site plan, septic permit from the Southwest Utah Public Health Department (SWPHD) and showing water rights and quality of water from a spring. The applicant accesses the property off SR-18 onto a Forest Service Road, which was previously recognized as a public access road for the Barton Imley Subdivision. **Staff granted permanent status to the approved Conditional Use Permit.**

**IX. MINUTES.** Consider approval of the minutes of the regular Planning Commission meeting held October 09, 2012.

The commission reviewed the minutes.

**Motion: Commissioner Everett MOVED to approve the Minutes of October 09, 2012 with corrections. Commissioner Christopher SECONDED. Chairman Wilson called for discussion on the motion. There was none and the motion carried with all six (6) Commissioners voting in favor.**

**X. COUNTY COMMISSION ACTION REVIEW.** Review of action taken by the County Commission on Planning Items; County initiated.

The planner reported on action taken on planning items by the Washington County Commission on October 16, 2012, that included the following: (a) Conditional Use Permit extension for installation of the 345kV Transmission Project approving three alternative routes through Washington County to Red Butte No. 2, Rocky Mountain Power, applicants; and (b) Conditional Use Permit to locate equipment and pipe storage in a staging area on the Bowler arena property in Veyo, Carl Bowler, owner/applicant.

**XI. COMMISSION & STAFF REPORTS.** General reporting on various topics; County initiated.

Chairman Wilson asked the status of the Land Use Authority approval versus the County Commission issue. Mr. Clarke stated they are still working on it and should have something to the Commission early next year.

Commissioner Everett commented on private property being leased out for storage that both lessee and lessor are required to be responsible for bonding and other requirements for the conditional use permit, which would eliminate any future problems. He asked that requirement be implemented.

There were no other reports.

Motion was made by Commissioner Balen to adjourn the meeting at 3:30 p.m.

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Doreen Bowers-Irons  
Planning Secretary

Approved: 11 December 2012